

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

4824 EAST GLORIA LANE,
SPOKANE VALLEY,
WASHINGTON, TOGETHER
WITH ALL APPURTENANCES,
FIXTURES, ATTACHMENTS,
AND IMPROVEMENTS
THERE TO AND THEREUPON,

Defendant.

CV-09-322-EFS

Final Order of Forfeiture

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem that the Defendant property is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881.

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper pursuant to 28 U.S.C. § 1395.

The defendant property consists of real property located at 4824 East Gloria Lane, Spokane Valley, Washington, legally described as follows:

The East half of Lot 9 and all of Lot 10 in Block 26 of WOODLAND TERRACE ADDITION as per plat thereof recorded in Volume "I" of Plats, Page 16.

Situate in the County of Spokane, State of Washington.

Assessor's Property Tax Parcel Account Number(s): 35233.2615

SUBJECT TO easements, restrictions, reservations and covenants of record.

Spokane County real property records and a lien search report reflect that Klailynn L. Dement, an unmarried woman, is the titled owner of the Defendant real property. A claim filed by BAC Home Loans Servicing, LP, ("BAC"),

1 reflects that Ms. Dement's interest is subject to a note and deed of trust held by
2 mortgage lienholder, BAC.

3 On October 22, 2009, Klailynn Dement and Attorney Bevan Maxey were
4 served via certified mail, return receipt requested, with copies of the Verified
5 Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and the Lis
6 Pendens in the above-entitled matter as evidenced by the Certificate of Service of
7 Notice by mail filed with the Court on October 27, 2009. (CR 4). On November 6,
8 2009, Klailynn Dement filed a verified claim to the Defendant real property. (CR
9 6). On November 19, 2009, Klailynn Dement filed an answer to the complaint.
10 (CR 10).

11 On October 22, 2009, Gregory Lumley and Attorney Amy Rubin were
12 served via certified mail, return receipt requested, with copies of the Verified
13 Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and the Lis
14 Pendens in the above-entitled matter as evidenced by the Certificate of Service of
15 Notice by mail filed with the Court on October 27, 2009. (CR 5). To date,
16 Gregory Lumley has not filed a claim or an answer to the complaint.

17 On October 22, 2009, Bank of America/Countrywide Home Loans was
18 served via certified mail, return receipt requested, with copies of the Verified
19 Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and the Lis
20 Pendens in the above-entitled matter as evidenced by the Certificate of Service of
21 Notice by mail filed with the Court on October 27, 2009. (CR 3). On November
22 19, 2009, BAC Home Loans Servicing, LP filed a claim to the Defendant real
23 property and an answer to the complaint. (CR 7 and 10).

24 On November 2, 2009, the United States Marshals Service posted copies of
25 the Verified Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture,
26 and Lis Pendens in the above-entitled matter upon the Defendant real property as
27 evidenced by the form USM-285 filed with the Court on January 5, 2010. (CR 12)
28

1 The Notice of Complaint was posted on the official government website
2 www.forfeiture.gov beginning October 21, 2009, through November 19, 2009, as
3 required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or
4 Maritime Claims and Asset Forfeiture Actions, as evidenced by the Notice of
5 Publication filed with the Court on January 3, 2011. Rule G of the Supplemental
6 Rules for Certain Admiralty and Maritime Claims, Fed. R. Civ. P., and 18 U.S.C. §
7 983(a)(4)(A), require that claimants file a claim within sixty (60) days after first
8 date of publication, or within thirty (35) days after service of the complaint,
9 whichever occurs first. At the latest this 60-day period expired on December 21,
10 2009.

11 On October 27, 2010, the United States and Claimant, Klailynn Dement,
12 entered into a settlement agreement and stipulation for order of forfeiture, filed
13 herein on October 27, 2010, wherein Claimant, Klailynn Dement, agreed to the
14 forfeiture of the Defendant real property to the United States; and, the United
15 States agreed to pay Claimant, Klailynn Dement, \$25,000.00, from the net
16 proceeds from the sale of the Defendant real property, in settlement of her interest
17 in the Defendant real property, however, if the remaining sale proceeds are less
18 than \$25,000.00, the United States will pay Claimant, Klailynn Dement, the lesser
19 amount of the remaining sale proceeds. Further, if no sale proceeds remain after
20 payment of the agreed upon expenses and obligations, no payment shall be made
21 by the United States to Claimant, Klailynn Dement, and all other terms of the
22 settlement agreement and stipulation shall remain in effect. CR 35.

23 On December 28, 2010, the United States and Claimant, BAC Home Loans
24 Servicing, LP, (hereafter "BAC"), entered into a settlement agreement, filed herein
25 on December 28, 2010 (CR 39), wherein Claimant, BAC, agreed to the forfeiture
26 of the Defendant real property to the United States; and, the United States agreed
27 to pay Claimant, BAC, after payment of outstanding taxes and expenses of custody
28 and sale incurred by the United States Marshals Service, the following:

1 a. All unpaid principal due to Claimant, BAC, in the amount
2 of \$79,419.32, as of October 1, 2009, pursuant to a Promissory Note, which was
3 secured by a Deed of Trust recorded on August 14, 2003, in the official records of
4 Spokane County, Washington, under Recording No. 4945786; and,

5 b. all unpaid interest, which totaled \$1,044.65 through December 10,
6 2009, and additional interest calculated at the base contractual rate (not the default
7 rate) under the above Note assessed at \$14.96 per diem from December 11, 2009,
8 until the date of payment.

9 c. casualty insurance premiums, if any, advanced by Claimant, BAC.

10 d. real property taxes, if any, advanced by Claimant, BAC.

11 e. Attorney's fees in the amount of \$1,124.50.

12 It appearing to the Court that Claimant Klailynn Dement's interest in the
13 Defendant real property has been resolved through the entry of the settlement
14 agreement and stipulation for order of forfeiture filed herein;

15 It also appearing to the Court that Claimant BAC's interest in the Defendant
16 real property has been resolved through the entry of the expedited settlement
17 agreement filed herein;

18 It further appearing to the Court that no other timely claims have been made
19 to the Defendant real property

20 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the:

21 Real property located at 4824 East Gloria Lane, Spokane Valley,
22 Washington, legally described as follows:

23 The East half of Lot 9 and all of Lot 10 in Block 26 of WOODLAND
24 TERRACE ADDITION as per plat thereof recorded in Volume "I" of
25 Plats, Page 16.

26 Situate in the County of Spokane, State of Washington.

27 Assessor's Property Tax Parcel Account Number(s): 35233.2615

28 SUBJECT TO easements, restrictions, reservations and covenants of
record.

1 Is hereby forfeited to the United States of America, and no right, title, or interest
2 shall exist in any other person.

3 IT IS FURTHER ORDERED that the United States Marshals Service shall,
4 upon sale of the Defendant real property and after payment of outstanding taxes
5 and U.S. Marshal's expenses of custody and sale, pursuant to the Expedited
6 Settlement Agreement filed herein, pay the following to Claimant BAC:

7 a. All unpaid principal due to Claimant, BAC, in the amount
8 of \$79,419.32, as of October 1, 2009, pursuant to a Promissory Note, which was
9 secured by a Deed of Trust recorded on August 14, 2003, in the official records of
10 Spokane County, Washington, under Recording No. 4945786; and,

11 b. all unpaid interest, which totaled \$1,044.65 through December 10,
12 2009, and additional interest calculated at the base contractual rate (not the default
13 rate) under the above Note assessed at \$14.96 per diem from December 11, 2009,
14 until the date of payment.

15 c. casualty insurance premiums, if any, advanced by Claimant, BAC.

16 d. real property taxes, if any, advanced by Claimant, BAC.

17 e. Attorney's fees in the amount of \$1,124.50.

18 IT IS FURTHER ORDERED that the United States Marshals Service shall,
19 upon sale of the Defendant real property and after payment of outstanding taxes
20 and U.S. Marshal's expenses of custody and sale, and payment of amounts due and
21 owing to BAC, pursuant to the Settlement Agreement and Stipulation for Order of
22 Forfeiture, filed herein, pay Claimant Klailynn Dement, as follows:

23 \$25,000.00 from the remaining sale proceeds in settlement of her interest in
24 the Defendant real property. If the remaining sales proceeds are less than \$25,000
25 after payment of the aforementioned expenses and obligations, the United States
26 will pay Claimant, Klailynn Dement, the lesser amount of the remaining sales
27 proceeds. If no sales proceeds remain after payment of the aforementioned
28 expenses and obligations, no payment shall be made by the United States to

1 Claimant, Klailynn Dement and all other terms of the Settlement Agreement and
2 Stipulation for Order of Forfeiture shall remain in effect.

3 IT IS FURTHER ORDERED that the United States shall dispose of the
4 forfeited Defendant property described herein in accordance with law.

5 DATED this 4th day of January, 2011.

6
7 s/ Edward F. Shea

8 Edward F. Shea
9 United States District Judge

10 Presented by:

11 Michael C. Ormsby
12 United States Attorney

13 s/James A. Goeke

14 James A. Goeke
15 Assistant United States Attorney